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December 6, 2013

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Ruuhwa Dann, President & Registered Agent
Mike Easterbrook, Chief Compliance Officer
Puneet Gupta, Regulatory Affairs Specialist
Ruuhwa Dann & Associates, Inc.
DBA Cal Micro Recycling
1541 West Brooks Street
Ontario, CA 91762

Ruuhwa Dann, President & Registered Agent
Mike Easterbrook, Chief Compliance Officer
Puneet Gupta, Regulatory Affairs Specialist
Ruuhwa Dann & Associates, Inc.
DBA Cal Micro Recycling
1515 West Holt Boulevard
Ontario, CA 91762

RE: Notice Of Violations And Intent To File Suit Under The Federal Water Pollution Control Act Concerning Cal Micro Recycling, 1525 and 1541 West Brook Street, Ontario, California, WDID No. 8 36I022093

Dear Messrs. Dann, Easterbrook, Gupta,

The Law Office of Gideon Kracov (hereinafter "**Office**") on behalf of the Center for Community Action and Environmental Justice (hereinafter "**CCAEJ**") is contacting you concerning Clean Water Act (hereinafter "**CWA**" or "**Act**") violations at Cal Micro Recycling's facility at 1525 and 1541 West Brooks Street, Ontario, California (hereinafter "**Facility**").

This letter is being sent to you, Mike Easterbrook, Ruuhwa Dann, Puneet Gupta, Cal Micro Recycling, and Ruuhwa Dann & Associates, Inc., as the responsible owners, officers, or operators of the Facility (collectively hereinafter "**Cal Micro**").

CCAEJ is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCAEJ has members living in

the community adjacent to the Facility and the Santa Ana River Watershed. CCAEJ and its members are deeply concerned with protecting the environment in and around their communities, including the Santa Ana River Watershed.

This letter addresses Cal Micro' unlawful discharge of pollutants from the Facility through the San Bernardino County municipal storm sewer system to the State Street Channel which flows into Brooks Basin, San Antonio Channel, Chino Creek and into the Santa Ana River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System (hereinafter "**NPDES**") Permit No. CA S000001, California State Water Resources Control Board (hereinafter "**State Board**") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "**General Permit**"). The WDID identification number for the Facility listed on documents submitted to the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") is 8 36I022093. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the CWA requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (hereinafter "**EPA**"), and the State in which the violations occur.

As required by the Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Cal Micro is hereby placed on formal notice by CCAEJ that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAEJ intends to file suit in federal court against Cal Micro under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the CWA and General Permit. These violations are described more extensively below.

I. BACKGROUND.

On April 1, 2009 Cal Micro filed a Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (hereinafter "**NOI**"). In its NOI, Cal Micro has certified that the Facility is classified under SIC Codes 2821 (Plastics Materials, Synthetic Resins, and Nonvulcanized Elastomers), 4952 (Sewerage Systems) and 5093 (Scrap and Waste Materials). The Facility collects and discharges storm water from its industrial site into one or more storm drain outfalls located at the Facility. The outfalls discharge into San Bernardino County's municipal storm sewer system, which flows into Chino Creek which flows into the Santa Ana River.

The Regional Board has identified beneficial uses of the Santa Ana River Watershed and established water quality standards for the river and its tributaries in "The Water Quality Control

Plan (Basin Plan) for the Santa Ana River Basin" (hereinafter "**Basin Plan**"). *See* California Regional Water Quality Control Board, Santa Ana Region, The Water Quality Control Plan (Basin Plan) for the Santa Ana River Basin (2011), *available at* http://www.swrcb.ca.gov/rwqcb8/water_issues/programs/basin_plan/index.shtml.

The beneficial uses of these waters include, among others, municipal and domestic supply, agricultural supply, groundwater recharge, water contact recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible." *Id.* at 3-3. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." *Id.* Contact recreation use includes fishing and wading. *Id.* at 3-2. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people's use of the Santa Ana River for contact and non-contact water recreation.

The Basin Plan includes a narrative toxicity standard which states that "[t]oxic substances shall not be discharged at levels that will bioaccumulate in aquatic resources to levels which are harmful to human health." *Id.* at 4-18. The Basin Plan includes a narrative oil and grease standard which states that "[w]aste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses." *Id.* at 4-15. The Basin Plan includes a narrative suspended and settleable solids standard which states that "waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses . . . ." *Id.* at 4-16. The Basin Plan includes a narrative floatables standard which states that "[w]aste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses." *Id.* at 4-11. The Basin Plan includes a narrative color standard which states that "[w]aste discharges shall not result in coloration of the receiving waters which causes a nuisance or adversely affect beneficial uses." *Id.* at 4-10. The Basin Plan includes a narrative turbidity standard which states that "inland surface waters . . . shall be free of changes in turbidity which adversely affect beneficial uses. *Id.* at 4-18.

Moreover, the Basin Plan sets out a number of numeric water quality standards. The Basin Plan includes Site Specific Objective standards (hereinafter "**SSOs**") of 0.0017 mg/L for cadmium, 0.0182 mg/L for copper, and 0.0041 mg/L for lead.[1] *Id.* at 4-14. The Basin Plan

[1] The values for cadmium, copper and lead are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 200 mg/L.

includes a pH standard of 6.5 – 8.5 standard units (hereinafter "**s.u.**"). *Id.* at 4-15. The Basin Plan includes a Nitrate standard of 10 mg/L. *Id.* at 4-14.

The Basin Plan also sets out additional numeric water quality standards for Chino Creek, which the Facility's discharge flows through. In particular, the Basin Plan sets numeric water quality objectives of 550 mg/L for total dissolved solids, 240 mg/L for hardness, 75 mg/L for sodium, 75 mg/L for chloride, 8 mg/L for total inorganic nitrogen, 60 mg/L for sulfate, and 15 mg/L for chemical oxygen demand.

EPA has promulgated the California Toxics Rule (hereinafter "**CTR**"), establishing freshwater numeric water quality standards known as Criteria Maximum Concentration (hereinafter "**CMC**") and Criteria Continuous Concentration (hereinafter "**CCC**") for zinc of 0.120 mg/L (CMC and CCC); copper of 0.009 mg/L (CMC) and 0.013 mg/L (CCC); and for lead of 0.065 mg/L (CMC) and 0.0025 mg/L (CCC). 40 C.F.R. § 131.38.[2]

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (hereinafter "**BAT**") and best conventional pollutant control technology (hereinafter "**BCT**"). The following benchmarks have been established for pollutants discharged by Cal Micro: Chemical Oxygen Demand – 120 mg/L, Total Suspended Solids – 100 mg/L, Aluminum 0.75 mg/L, Copper 0.0156 mg/L, Iron 1.0 mg/L, Lead – 0.095 mg/L, and Total Zinc – 0.13 mg/L.[3] U.S. Environmental Protection Agency, Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (2009) 52, 102 (hereinafter "**MSGP**").

II. ALLEGED VIOLATIONS OF THE NPDES PERMIT.

a. Discharges In Violation Of The Permit Not Subjected To BAT/BCT.

Cal Micro has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants

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[2] The values for zinc, copper, and lead are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L.

[3] *Id.*

are Total Suspended Solids, Oil and Grease, pH, Biochemical Oxygen Demand, and Fecal Coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.* §§ 401.15, 401.16.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Industrial Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Cal Micro has discharged and continues to discharge storm water with unacceptable levels of copper, lead, zinc, total organic compounds, iron, aluminum, chemical oxygen demand, oil & grease, total suspended solids and other pollutants in violation of the General Permit. Cal Micro' sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan or the CTR, evidencing past and ongoing violations of General Permit Discharge Prohibitions A(1) and A(2), Effluent Limitation B(3) and Receiving Water Limitations C(1) and C(2).

Date	**Parameter**	**Observed Concentration**	**Basin Plan or EPA Water Quality Standard**	**Outfall (as identified by the Facility)**
2/8/2013	Chemical Oxygen Demand	388 mg/L	15 mg/L	South Outfall
12/12/2011	Chemical Oxygen Demand	354 mg/L	15 mg/L	South Outfall

10/5/2011	Chemical Oxygen Demand	1170 mg/L	15 mg/L	South Outfall
2/8/2013	Copper	0.085 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
12/12/2011	Copper	0.06 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
10/5/2011	Copper	0.185 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
2/5/2010	Copper	0.123 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
2/8/2013	Lead	0.248 mg/L	0.0041 mg/L; 0.095 mg/L; 0.065 mg/L (CMC); 0.025 mg/L (CCC)	South Outfall
12/12/2011	Lead	0.044 mg/L	0.0041 mg/L; 0.025 mg/L (CCC)	South Outfall
10/5/2011	Lead	0.148 mg/L	0.0041 mg/L; 0.095 mg/L; 0.065 mg/L (CMC); 0.025 mg/L (CCC)	South Outfall
2/5/2010	Lead	0.018 mg/L	0.0041 mg/L	South Outfall
2/8/2013	Zinc	1.06 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
12/12/2011	Zinc	0.84 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
10/5/2011	Zinc	3.14 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
2/5/2010	Zinc	0.513 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
2/8/2013	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
1/10/2013	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall

12/26/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
12/24/2012	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
12/18/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
12/17/2012	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
12/13/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
12/3/2012	Narrative	Yellowish	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
11/29/2012	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
11/9/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
2/15/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
12/12/2011	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
11/4/2011	Narrative	Yellowish hue	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
10/5/2011	Narrative	Oily	Oil & Grease (Basin Plan at 4-18)	South Outfall
2/5/2010	Narrative	Discoloration	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
12/30/2009	Narrative	Discoloration	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall

The information in the above table reflects data gathered from Cal Micro's self-monitoring during the 2008-2009, 2009-2010, 2010-2011, 2011-2012 and 2012-2013 wet seasons. CCAEJ alleges that during each of these wet seasons and continuing through today, Cal Micro has discharged storm water contaminated with pollutants at levels or observations that exceed or violate one or more applicable water quality standards, including, but not limited to, each of the following:

- Chemical Oxygen Demand – 15 mg/L, Basin Plan at 4-42, tbl. 4-1;
- Color – "Water discharges shall not result in coloration of the receiving waters which causes a nuisance or adversely affect beneficial uses," *id.* at 4-10;
- Copper – 0.0182 mg/L, *id.* at 4-14;
- Copper – 0.009 mg/L (CMC), 40 C.F.R. § 131.38;
- Copper – 0.013 mg/L (CCC), *id.*;
- Lead – 0.0041 mg/L, Basin Plan at 4-14;
- Lead – 0.065 mg/L (CMC), 40 C.F.R. § 131.38;
- Lead – 0.025 mg/L (CCC), *id.*;
- Oil and Grease – "Waste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses," Basin Plan at 4-15;
- Turbidity – "All inland surface waters of the region shall be free of changes in turbidity which adversely affect beneficial uses," *id.* at 4-18; and
- Zinc – 0.12 mg/L (CMC and CCC), 40 C.F.R. § 131.38

The following discharges of pollutants from the Facility contained concentrations of pollutants in excess of numeric water quality benchmarks established by EPA in the MGSP ("**EPA Benchmarks**"), evidencing past and ongoing violations of General Permit Discharge Prohibitions A(1) and A(2), Effluent Limitation B(3) and Receiving Water Limitations C(1) and C(2).

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Date	Parameter	Observed Concentration	EPA Benchmarks	Location (as identified by the Facility)
2/8/2013	Aluminum	4.78 mg/L	0.75 mg/L	South Outfall
12/12/2011	Aluminum	1.5 mg/L	0.75 mg/L	South Outfall
10/5/2011	Aluminum	3.5 mg/L	0.75 mg/L	South Outfall
2/5/2010	Aluminum	4.08 mg/L	0.75 mg/L	South Outfall
2/8/2013	Chemical Oxygen Demand	388 mg/L	120 mg/L	South Outfall
12/12/2011	Chemical Oxygen Demand	354 mg/L	120 mg/L	South Outfall
10/5/2011	Chemical Oxygen Demand	1170 mg/L	120 mg/L	South Outfall
2/8/2013	Copper	0.085 mg/L	0.0156 mg/L	South Outfall
12/12/2011	Copper	0.06 mg/L	0.0156 mg/L	South Outfall
10/5/2011	Copper	0.185 mg/L	0.0156 mg/L	South Outfall
2/5/2010	Copper	0.123 mg/L	0.0156 mg/L	South Outfall
2/8/2013	Iron	5.3 mg/L	1.0 mg/L	South Outfall
12/12/2011	Iron	2.31 mg/L	1.0 mg/L	South Outfall
10/5/2011	Iron	6.31 mg/L	1.0 mg/L	South Outfall
2/8/2013	Lead	0.248 mg/L	0.095 mg/L	South Outfall
10/5/2011	Lead	0.148 mg/L	0.095 mg/L	South Outfall
10/5/2011	Total Organic Carbon	235 mg/L	110 mg/L	South Outfall
2/5/2010	Total Organic Carbon	150 mg/L	110 mg/L	South Outfall
2/8/2013	Total Suspended Solids	195 mg/L	100 mg/L	South Outfall
10/5/2011	Total Suspended Solids	114 mg/L	100 mg/L	South Outfall
2/8/2013	Zinc	1.06 mg/L	0.13 mg/L	South Outfall
12/12/2011	Zinc	0.84 mg/L	0.13 mg/L	South Outfall
10/5/2011	Zinc	3.14 mg/L	0.13 mg/L	South Outfall
2/5/2010	Zinc	0.513 mg/L	0.13 mg/L	South Outfall

The information in the above table reflects data gathered from Cal Micro's self-monitoring during the 2008-2009, 2009-2010, 2010-2011, 2011-2012 and 2012-2013 wet seasons. CCAEJ alleges that during each of those rainy seasons and continuing through today, Cal Micro has discharged storm water contaminated with pollutants that exceed one or more applicable EPA Benchmarks, including, but not limited to, each of the following:

- Aluminum – 0.75 mg/L, MSGP at 102;

- Chemical Oxygen Demand – 120 mg/L, *id.*;
- Copper – 0.0156 mg/L, *id.*;
- Iron – 1.0 mg/L, *id.;*
- Lead – 0.095 mg/L, *id.*;
- Total Organic Carbon – 110 mg/L;
- Total Suspended Solids – 100 mg/L, MSGP at 102; and
- Zinc – 0.13 mg/L, *id.* at 52, 102.

CCAEJ's investigation, including its review of Cal Micro's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and the EPA's benchmark values, indicate that Cal Micro has not implemented BAT and BCT at the facility for its discharges of Aluminum, Chemical Oxygen Demand, Copper, Iron, Lead, Total Organic Carbon, Total Suspended Solids, Zinc and other pollutants in violation of Effluent Limitation B(3) of the General Permit. Cal Micro was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus Cal Micro is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed in the table above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CCAEJ alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since at least December 6, 2008 and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CCAEJ alleges that Cal Micro has discharged storm water containing impermissible levels of Aluminum, Chemical Oxygen Demand, Color, Copper, Iron, Lead, Oil & Grease, Total Organic Carbon, Turbidity, Zinc and other pollutants in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit.[4]

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions

[4] The rain dates are all the days when an average of 0.1" or more rain fell as measured by a weather station located in Pomona, as well as comparing this data to the reported observations from the rain gauge at the Facility.

brought pursuant to the CWA, Cal Micro is subject to penalties for violations of the General Permit and the Act since December 6, 2008.

b. Failure To Develop And Implement An Adequate Monitoring And Reporting Program.

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

The above-referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by Cal Micro is not representative of the quality of the Facility's various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CCAEJ alleges that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

c. Failure To Analyze For Mandatory Parameters.

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations. General Permit Section B(5)(a). Collected samples must be analyzed for Total Suspended Solids, pH, Specific Conductance and either Total Organic Carbon or O&G. *Id.* at Section B(5)(c)(i). Facilities must also analyze their storm water samples for "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities," including copper, lead, zinc, aluminum, chemical oxygen demand, and iron. *Id.* at Section B(5)(c)(ii); MSGP at 52, 102.

CCAEJ's investigation of the Cal Micro's monitoring data indicates that you have failed to analyze for Copper, Lead, Zinc, Iron, Aluminum, Chemical Oxygen Demand, and pH during the 2009-2010 wet season.

Each failure to analyze for mandatory parameters constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the CWA, Cal Micro is subject to penalties for violations of the General Permit and the Act since December 6, 2008.

d. Failure To Prepare, Implement, Review and Update An Adequate Storm Water Pollution Prevention Plan.

Section A and Provision E(2) of the General Industrial Storm Water Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan (hereinafter "**SWPPP**") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices (hereinafter "**BMPs**") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)). The SWPP must also include a certification statement and signature (General Permit, Section C(10)).

CCAEJ's investigation of the conditions at the Facility as well as Cal Micro's Annual Reports indicates that Cal Micro has been operating with an inadequately developed SWPPP in violation of the requirements set forth above. Cal Micro has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Cal Micro has been in continuous violation of Section A and Provision E(2) of the General Permit every day since December 5, 2008, at the

very latest, and will continue to be in violation every day that Cal Micro fails to prepare, implement, review, and update an effective SWPPP. Cal Micro is subject to penalties for violations of the Order and the Act occurring since December 6, 2008.

e. Failure To Implement Storm Water Best Management Practices.

Provision E(2) as well as Sections A(1), A(9), A(10)(c), and A(10)(d) of the General Permit require that a facility implement BMPs adopted in their SWPPP "when industrial activities begin," "prior to any changes in industrial activity at the Facility," and at most within 90 days of any revisions to the SWPPP. Moreover, if a facility determines that any part of the SWPPP is infeasible to implement by the deadlines, a facility is required to report this to the Regional Board "prior to the applicable deadline."

CCAEJ's investigation of the conditions at the Facility as well as the City of Ontario's Stormwater Program Inspection Reports indicates that Cal Micro has consistently failed to implement BMPs adopted as part of their SWPPP. Inspections by the City of Ontario shows that Cal Micro has failed to implement both non-structural and structural BMPs that are outlined in its SWPPP, including sweeping of trash and debris and installation of storm water treatment controls. City of Ontario Stormwater Program, Industrial Facility Inspection Report, File No. Brooks St W 1541 and 1525 (Jan. 3 2013); City of Ontario Stormwater Program, Industrial Facility Inspection Report, File No. Brooks St W 1541 and 1525 (Sept. 19 2011); City of Ontario Stormwater Program, Industrial Facility Inspection Report, File No. Brooks St W 1541 and 1525 (Oct. 25 2010); City of Ontario Stormwater Program, Industrial Facility Inspection Report, File No. Brooks St W 1541 and 1525 (Dec. 11 2009).

f. Failure To File True And Correct Annual Reports.

Section B(14) of the General Industrial Storm Water Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), C(10). Section A(9)(d) of the General Industrial Storm Water Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the last five years, Cal Micro and its agents, Mike Easterbrook, Ruuhwa Dann and Puneet Gupta, inaccurately certified in their Annual Reports that the Facility was in compliance with the General Permit. Consequently, Cal Micro has violated Sections A(9)(d), B(14), C(9) and C(10) of the General Industrial Storm Water Permit every time Cal Micro failed to submit a complete or correct report and every time Cal Micro or its agents falsely purported to comply with the Act. Cal Micro is subject to penalties for violations of Section (C) of the General

Industrial Storm Water Permit and the Act occurring since December 6, 2008.

III. Persons Responsible For the Violations.

CCAEJ puts Cal Micro Recycling, Ruuhwa Dann & Associates, Inc., Mike Easterbrook, Ruuhwa Dann, and Puneet Gupta on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CCAEJ puts Cal Micro Recycling, Ruuhwa Dann & Associates, Inc., Mike Easterbrook, Ruuhwa Dann, and Puneet Gupta on notice that it intends to include those persons in this action.

IV. Name And Address Of Noticing Parties.

The name, address and telephone number of CCAEJ is as follows:

Center for Community Action and Environmental Justice
P.O. Box 33124
Jurupa Valley, CA 92519
Tel. (951) 360-8451

V. Counsel.

CCAEJ has retained counsel to represent it in this matter. Please direct all communications to:

Gideon Kracov
Mitchell M. Tsai
The Law Office of Gideon Kracov
801 South Grand Avenue
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Los Angeles, California 90017
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VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Cal Micro to a penalty of up to $32,500.00 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit through January 12, 2009, and a maximum of $37,500 per day per violation for all violations occurring after January 12, 2009. In addition to civil penalties, CCAEJ will seek

injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. §1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CCAEJ believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCAEJ intends to file a citizen suit under Section 505(a) of the Act against Cal Micro and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CCAEJ would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CCAEJ suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CCAEJ does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

Mitchell M. Tsai
The Law Office of Gideon Kracov
Attorneys for Center for Community Action and Environmental Justice

SERVICE LIST

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
12000 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Eric Holder, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Jared Blumenfeld, Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA 94105

Kurt V. Berchtold, Executive Officer
Santa Ana Regional Water Quality Control Board
3737 Main Street
Suite 500
Riverside, CA 92501-3348

*Served via Certified Mail, Return Receipt Requested.

ATTACHMENT A

Rain Dates, Cal Micro, Ontario, California

11/26/2008	12/15/2008	12/16/2008
12/17/2008	12/25/2008	2/5/2009
2/6/2009	2/7/2009	2/8/2009
2/9/2009	2/13/2009	2/16/2009
11/30/2009	12/6/2009	12/7/2009
12/16/2009	12/29/2009	1/3/2010
1/4/2010	1/5/2010	1/7/2010
1/9/2010	1/10/2010	2/7/2010
2/8/2010	2/12/2010	2/14/2010
2/17/2010	2/19/2010	2/20/2010
2/21/2010	2/22/2010	2/23/2010
2/25/2010	2/27/2010	2/28/2010
3/1/2010	3/2/2010	3/5/2010
3/15/2010	3/17/2010	11/30/2010
12/6/2010	12/7/2010	12/16/2010
1/3/2011	1/4/2011	1/5/2011
1/7/2011	1/9/2011	1/10/2011
2/7/2011	2/8/2011	2/12/2011
2/14/2011	2/17/2011	2/19/2011
2/20/2011	2/21/2011	2/22/2011
2/23/2011	2/25/2011	2/27/2011
2/28/2011	3/1/2011	3/2/2011
3/5/2011	3/15/2011	3/17/2011

11/30/2011	12/6/2011	12/7/2011
12/16/2011	12/29/2011	1/3/2012
1/4/2012	1/5/2012	1/7/2012
1/9/2012	1/10/2012	2/7/2012
2/8/2012	2/12/2012	2/14/2012
2/17/2012	2/19/2012	2/20/2012
2/21/2012	2/22/2012	2/23/2012
2/25/2012	2/27/2012	2/28/2012
2/29/2012	3/1/2012	3/2/2012
3/5/2012	3/15/2012	3/17/2012
11/30/2012	12/6/2012	12/7/2012
12/16/2012	12/29/2012	1/3/2013
1/4/2013	1/5/2013	1/7/2013
1/9/2013	1/10/2013	2/7/2013
2/8/2013	2/12/2013	2/14/2013
2/17/2013	2/19/2013	2/20/2013
2/21/2013	2/22/2013	2/23/2013
2/25/2013	2/27/2013	2/28/2013
3/1/2013	3/2/2013	3/5/2013
3/15/2013	3/17/2013	11/30/2013